

PUBLIC SAFETY & PUBLIC INFORMATION COMMITTEE***Of the******Suffolk County Legislature******Minutes***

A regular meeting of the Public Safety & Public Information Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York, on November 14, 2006.

Members Present:

Legislator Kate Browning • Vice•Chair
Legislator Wayne Horsley
Legislator Vivian Vilorio•Fisher
Legislator Joseph Caracappa
Legislator Daniel Losquadro
Legislator Jay Schneiderman
Presiding Officer William Lindsay • Ex•Officio

Members Not Present:

Legislator Jack Eddington • Chairman

Also In Attendance:

George Nolan • Counsel to the Legislature
Ian Barry • Assistant Counsel to the Legislature
Renee Ortiz • Chief Deputy Clerk/Suffolk County Legislature
Robert Calarco • Aide to Legislator Eddington
Bobby Knight • Aide to Presiding Officer Lindsay
Meghan O'Reilly • Aide to Presiding Officer Lindsay
Gail Vizzini • Director/Budget Review Office
Jill Moss • Budget Review Office
Ben Zwirn • Assistant County Executive

Brian Beedenbender • County Executive Assistant
 Dennis Brown • Municipal Law Bureau Chief/County Attorney's Office
 Robert Kearon • Division Bureau Chief/District Attorney's Office
 Robert Moore • Chief of Department/Suffolk County Police Department
 Aristedes Mojica • Inspector/Chief of Dept's Office/SCPD
 Robert Scharf • Lieutenant/Staff Services Bureau/SCPD
 Robert Ponzo • Assistant Chief of Patrol/SCPD
 Kenneth Rau • Chief of Detectives/SPCD
 Dennis Caine • Deputy Chief of Detectives/SCPD
 Mark White • Chief of Homeland Security/SCPD
 Thomas Bloomberg • Lieutenant•5th Precinct/SCPD
 John Desmond • Director/Suffolk County Probation Department
 Tom Henry • Suffolk County Probation Department
 Hope Collazo • Director/Community Service Program•American Red Cross
 Debbie Eppel • Public Information Office
 Catherine Hoake • Suffolk County League of Women Voters
 Mary McLaughlin • Suffolk County League of Women Voters
 Sandy Sullivan • Legislative Liaison/AME
 James Maduri • Newsday
 All Other Interested Parties
Minutes Taken By:
 Alison Mahoney • Court Stenographer

(*The meeting was called to order at 11:36 AM*)

VICE•CHAIR BROWNING:

Okay, Legislator Eddington is unable to be here so I will be chairing the meeting for today, and we will start with the Pledge of Allegiance started by Legislator Vilorio•Fisher.

Salutation

Okay, we have a couple of appointees today for ••

LEG. HORSLEY:

Do we have cards? Do you think we should do the cards and let them go first?

LEG. VILORIA • FISHER:

Yeah, you do the cards first.

VICE • CHAIR BROWNING:

Okay, sorry. We are going to do the public portion first.

We have some cards here, we will start with Laura Ahearn.

MS. AHEARN:

Thank you. Megan's Law went into effect in New York in January of 1996 and parents and community members were offered an opportunity to be made aware of offenders so they can take necessary precautions to protect themselves and their children. But one of the unintended effects, of course, that we're seeing in communities now is we're being made aware of multiple sex offenders renting in one residential home, like in Mastic, and also clusters of houses with multiple sex offenders in them like in Gordon Heights. In order to prevent certain neighborhoods across Suffolk County who have affordable rents from having to bear the burden of clustering and of multiple sex offenders in one home, Legislative intervention has been necessary and I thank this committee for that, and especially Legislator Browning.

We have five populations of offenders that we have to deal with in the County and across the nation. Offenders who are on Probation who we have jurisdiction over, offenders being placed in emergency housing who we have jurisdiction over through DSS, offenders eligible in receiving Social Services stipends who we have jurisdiction over, offenders on parole who we don't have any jurisdiction over, and offenders where we have absolutely no jurisdiction because they're not under control of Probation or Parole or DSS. Legislator Browning's Resolution IR 2094 will prevent Social services from allowing more than one offender to reside in one home; that establishes a policy for two categories of offenders, those receiving emergency housing and those that are on Social Services and receiving stipends. And we fully support this proposal.

Legislator Browning's Resolution 2290 will effect every category of registering because it targets certain landlords who exploit communities for

profit by renting their homes to multiple sex offenders and renting multiple homes on the same block to sex offenders. That resolution also calls for a training program to be completed by the landlord or person managing the housing accommodation. I would recommend that the "or" be changed to "and", because if you would educate only the landlord, that landlord is going to place somebody in that home to manage that house and that person is not going to have the education that Probation is going to be providing.

Also, I would suggest that the training program that Probation is creating for this population, that program be approved by the Public Safety Committee. And the reason I bring that up is because the New York Times had done an article and they interviewed Bernadette Parks who is Mary Dodson's daughter. Bernadette felt it was her responsibility and something she was doing good for sex offenders and for the community in that she was allowing the offenders, along with her grandchildren, to play with bunny rabbits. Now, that may be a therapeutic intervention that she believes could be helpful, but it could be also very tragic for those bunny rabbits.

And if you've worked with sex offenders, and it's not something that we want to talk about publicly, but she is not in a position, she is not educated, she is not a treatment provider. My concern is that if you have landlords who are taking that class and who are not •• who the person managing the home is not taking the class, they could be attempting to provide some kind of therapeutic intervention when they have no idea what they're doing.

(*Legislator Caracappa entered the meeting 11:41 AM*)

We also fully sport Legislator Cooper's Resolution 2264 which will prevent convicted sex offenders from loitering within a hundred feet of places where children congregate such as playgrounds, day•care centers and video arcades.

Lastly, I'd like to thank Presiding Officer Lindsay for his support in introducing IR 2216 which is establishing a notification policy for absconded sex offenders who are on probation. Carlos Gomez, a Level III sex offender who brutally victimized many disabled women in an OCF facility in Suffolk County, absconded. And when one of the family members contacted

Probation because she was checking on the GPS program, she discovered that he had absconded four months earlier, and at the very least, victims families have a right to know if an offender does abscond. So we fully support that resolution as well.

VICE•CHAIR BROWNING:

Okay. Thank you, Laura.

LEG. VILORIA•FISHER:

I have a question.

VICE•CHAIR BROWNING:

Questions, go ahead.

LEG. VILORIA•FISHER:

Going to 2290, Laura, I missed precisely which WHEREAS or RESOLVED you were referring to when you said that the wording should be "and"; Can you tell me exactly where that is?

P.O. LINDSAY:

That's in Section 4•A, Subsection 1; "The landlord must complete a department•approved training program in sex offender issues. This training shall be completed by the landlord "or" the person who actually shall manage or operate the housing accommodation."

LEG. VILORIA•FISHER:

Okay. Thank you, Laura. I couldn't find the spot. Thank you.

MS. AHEARN:

Also, there's a •• in Subsection 4, "The landlord shall pay a registration fee of \$500"; maybe that registration fee should be directed to Probation to offset any material costs for that program they are developing.

VICE•CHAIR BROWNING:

I believe that was our intent, but I'll speak with Counsel on that.

MS. AHEARN:

Great. Thank you.

VICE•CHAIR BROWNING:

Okay. Thank you, Laura. The next one we have is Lois.

MS. LOIS:

Good afternoon. My name is Lois. My sister Joan is an emotionally handicapped adult living in a group home. Over a prolonged period of time, Joan, along with several other women residing in the home, was sexually abused by an employee of the facility. Because of Joan's disabilities, the District Attorney believed the stress of a trial would be too difficult for my sister to handle. A plea bargain was offered and accepted by the defendant; six years probation. He is now registered as a Level III offender.

Several months ago an article was written in Newsday regarding the monitoring of sexual offenders with the use of GPS devices; I contacted the reporter, Brendan Bain, for additional information. I then called the Probation Officer involved in my sister's case, it was only then that to my utter disbelief I was informed that Carols Gomez, the defendant, could not be located, he apparently missed several Probation meetings and his whereabouts are still unknown. I informed the staff working at the group home of this latest development. I also contacted the sister and other family members of other victims.

I think it is absolutely disgusting how myself and others involved were never notified about the defendant's disappearance. I would like to personally thank Laura Ahearn and all the staff members of Parents for Megan's Law, they have truly been a God•send to me and a source of comfort and strength to my family. Thank you.

VICE•CHAIR BROWNING:

Thank you, Lois. Does anyone have any questions? No? Okay, the next one we have is Donna Kukura with Parents of Murdered Children.

MS. KUKURA:

I'm here today to represent Suffolk County Chapter of Parents of Murdered Children and other survivors of homicide victims. We strongly support the

legislation that's been proposed by Kate Browning.

I'm also a resident of Shirley, so I live in the community that has been one of the affordable communities that sex offenders have been moving into. We are very much in favor of establishing a policy to restrict placement of sex offenders. We also would be in favor of 2290, the Local Law requiring the landlord to register with the Probation office and any training that could be provided, both to management as well as the house owner.

We hope that other legislation that's been proposed as far as regulating sex offenders in areas where children congregate, such as our community library, will also be addressed. Recently we did have another sex offense in our bowling alley. We would ask that you very seriously look at how we can manage these sex offenders to provide a safer community for all of us.

We support any legislation that you as a committee can do as an effort to make our communities safer and we ask that you take the victims of these •
• the survivors of these victims into consideration as well. Thank you.

VICE•CHAIR BROWNING:

Thank you, Donna. That is all the cards I have at this time. Is there anyone else who would like to speak in the public portion? Okay.

MS. AHEARN:

I think she wanted to.

VICE•CHAIR BROWNING:

Okay, she just walked out. We have a couple of appointees for FRES and I'd like to make a motion to take them out of order because I believe they have to leave; IR 2261 and IR 2263. Do we have a motion? I made a motion.

LEG. VILORIA•FISHER:

I'll second.

VICE•CHAIR BROWNING:

Second, Vivian Viloria•Fisher.

LEG. LOSQUADRO:

What was that number again?

LEG. VILORIA•FISHER:

2261.

VICE•CHAIR BROWNING:

2261. All in favor? Opposed? Abstentions? Okay, they're out of order.

IR 2261•06 • Approving the appointment of Richard Vella as a member of the Suffolk County Fire, Rescue & Emergency Services Commission (County Executive).

LEG. HORSLEY:

I'll make that motion.

VICE•CHAIR BROWNING:

Second.

LEG. VILORIA•FISHER:

Motion to approve?

LEG. HORSLEY:

Motion to approve.

VICE•CHAIR BROWNING:

Okay, we have a motion to approve and a second.

LEG. VILORIA•FISHER:

You invite him to come up.

VICE•CHAIR BROWNING:

Richard Vella, are you here? Can you come up front?

MR. VELLA:

Hi.

VICE•CHAIR BROWNING:

Hi. How are you?

MR. VELLA:

Okay. How are you today?

LEG. VILORIA•FISHER:

Would you like to tell us a little bit about yourself?

MR. VELLA:

Yeah. I'm a 36 year member of the West Babylon Fire Department. I've held all the ranks in the department from Captain of an Engine Company, Captain of Rescue, Captain of Fire Police. I'm an Ex•Chief of the West Babylon Fire Department. I serve on several committees in the State; I'm the Chairman of the Fire Police Committee for the Firemen's Association of the State of New York, I am past President of the Suffolk County Volunteer Firemen's Association. Right now I'm currently the President of the Town of Babylon Fire Chiefs Association, tomorrow night will be my last meeting. And that's about it.

I was on the FRES Commission once before representing the Suffolk County Chiefs, the reason I left was when I became President of Suffolk County Volunteer Firemen's Association I thought it was a conflict of representing both parties. Now that I'm over with, Suffolk County has asked me to replace Bobby Knight who has been on the committee forever, and I know I have a big pair of shoes to fill, I'm more than willing to do it.

VICE•CHAIR BROWNING:

Thank you. Does anyone on the committee have any questions?

LEG. HORSLEY:

I'll just make a quick statement.

VICE•CHAIR BROWNING:

Okay, Legislator Horsley.

LEG. HORSLEY:

If I can get my mike on. I just wanted to mention that Richie is truly one of the outstanding community members who are involved in firematic services in the Town of Babylon, and I'm just so pleased that you're here and look forward to supporting his application and approval.

VICE•CHAIR BROWNING:

Okay, thank you.

MR. VELLA:

Thank you, Wayne.

VICE•CHAIR BROWNING:

So we had a motion to approve and a second. All in favor? Any opposed? Abstentions? Okay, motion carries. Congratulations and thank you.

Approved (VOTE: 7•0•0•1 Not Present: Legislator Eddington).

MR. VELLA:

Thank you. Thank you very much.

VICE•CHAIR BROWNING:

And you don't have to come back on Tuesday, if you don't want to.

MR. VELLA:

Okay.

VICE•CHAIR BROWNING:

Okay, the other one we have is ••

MR. NOLAN:

Make a motion to take it out of order.

VICE•CHAIR BROWNING:

We have to make a motion to take IR 2263 out of order.

LEG. VILORIA•FISHER:

Second.

VICE•CHAIR BROWNING:

Okay, second by Vivian Vilorio•Fisher. All in favor? Opposed? Abstentions?

Okay, ***IR 2263•06 • Approving the appointment of David Ferguson as a member of the Suffolk County Fire, Rescue & Emergency Services Commission (County Executive).*** Mr. Ferguson, would you like to come up?

MR. FERGUSON:

Good afternoon.

VICE•CHAIR BROWNING:

Good afternoon.

MR. FERGUSON:

My name is Dave Ferguson, I am a 17 year member of the Greenlawn Fire Department. I, too, have held every rank in the department; Lieutenant, Captain, all the Assistant Chief positions. I am presently the Chief of the Department for the next seven weeks, I'm up in January. I'm the past President of the Town of Huntington Chiefs Council Association, I'm a New York State Emergency Medical Technician. Hmm, what else? I don't quite know.

LEG. VILORIA•FISHER:

Just a nice guy.

VICE•CHAIR BROWNING:

There you go.

MR. FERGUSON:

An all•around nice guy. So you might have •• I don't know, not everybody might agree. My personal life, I am a 17 year member of IBW Local 25, I am an electrician foreman by trade; Mr. Lindsay, how are you?

P.O. LINDSAY:

Very good.

MR. FERGUSON:

Family and two kids.

VICE•CHAIR BROWNING:

Thank you.

MR. FERGUSON:

You're welcome. Thank you.

VICE•CHAIR BROWNING:

So I think we had a motion to approve. Did we ••

LEG. VILORIA•FISHER:

No, we don't.

VICE•CHAIR BROWNING:

Okay, do we have a motion to approve?

P.O. LINDSAY:

Motion.

LEG. SCHNEIDERMAN:

Motion.

VICE•CHAIR BROWNING:

Okay, Jay seconds, and I think the motion was Legislator Lindsay.

All in favor? Opposed? Abstentions? Motion carries, congratulations and thank you. ***Approved (VOTE: 7•0•0•1 Not Present: Legislator Eddington).***

MR. FERGUSON:

Thank you very much.

VICE•CHAIR BROWNING:

Okay, we should go to the beginning.

Tabled Resolutions

IR 2094•05 • Establishing a policy to restrict placement of sex offenders (Browning). I will make the motion. And we have a second?

LEG. VILORIA•FISHER:

I'll second it.

VICE•CHAIR BROWNING:

Second, Legislator Vilorina•Fisher. His name is easier to say than yours sometimes.

LEG. VILORIA•FISHER:

I'm sorry, I didn't know anybody had their hand up. Okay, we have Counsel here who would like to make comment.

MR. BROWN:

Thank you, yes. For the record, Dennis Brown from the County Attorney's Office. And as I'm sure you are aware, Legislator Browning, that there was previously circulated an amended resolution which reflects the views of the County Attorney with respect to this resolution.

VICE•CHAIR BROWNING:

Okay, and I can respond to that. I have chosen not to accept those amendments. I don't believe we need to go to the State to make that decision, I believe DSS can do this on their own and the County agencies. I know Probation currently does not house more than one sex offender to a home, so I don't need to worry about what Probation is doing. And as I say, I will hold my bill as it stands.

You know, I'm sorry, I do appreciate that Mr. Sabatino took the time to meet with us. However, I feel it waters down the bill, it does not make it effective and the people in my community do not want to hear that we have to get permission from anyone. I believe that the County can make this decision, this committee can make this decision, this Legislature can make this decision, and I'm going to stick by my bill as originally written.

MR. BROWN:

Okay, thank you.

VICE•CHAIR BROWNING:

Thank you. So I have made a motion to approve. Do we have a second?

P.O. LINDSAY:

Just a question.

LEG. VILORIA•FISHER:

Second.

VICE•CHAIR BROWNING:

Okay, second for Vivian Viloria•Fisher. You have a question, Bill?

P.O. LINDSAY:

Yeah, the question about the concern about hotels and motels.

VICE•CHAIR BROWNING:

Would you like to respond? We talked about that.

MR. NOLAN:

There was some discussion about accepting hotels and motels, but it has not •• they have not been accepted and so they are covered by the bill as well, if they're in an area that's zoned residential.

P.O. LINDSAY:

Okay. Is that a workable situation? I'm asking the sponsor.

VICE•CHAIR BROWNING:

We could look into that, maybe in another bill. However, I looked at just where I live, we have two motels and one of them is right in the middle of a residential area.

LEG. LOSQUADRO:

I have a question.

VICE•CHAIR BROWNING:

My concern is that DSS or some County agency could turn around and say, "Well, you know, they excluded hotels and motels that are in residential

areas and now they're going to concentrate, cramming them into a motel." So at this time I'm not prepared to change it for that reason.

P.O. LINDSAY:

All right.

LEG. LOSQUADRO:

I have a question for Counsel, or for the sponsor.

VICE-CHAIR BROWNING:

Okay, Legislator Losquadro.

LEG. LOSQUADRO:

Based on Counsel's comment, by their very nature, doesn't a hotel have to be zoned commercial? A hotel can't be zoned residential or else it wouldn't be a motel. I'm just worried that we might be leaving loopholes here. Is there something in the bill saying if it's surrounded by residential? How does that work, because I would see that the nature of the zoning for a hotel would have to be commercial.

MR. NOLAN:

That's probably correct, but the law does not include language like you've just stated, that if it's zoned commercial but it's surrounded by residential that it would be covered by the law. I think that's a real drafting nightmare to try to come up with language to cover every •• to come up with every •• cover every situation that may arise, I think that would be tough.

LEG. LOSQUADRO:

But being that the hotels and motels question was raised, how does it apply in that scenario, being that it applies for residential and hotels are commercial?

MR. NOLAN:

The resolution does not specifically address hotels and motels at all.

LEG. LOSQUADRO:

Okay.

VICE•CHAIR BROWNING:

And we can look into that if you're interested.

LEG. LOSQUADRO:

Yes, I think we should.

VICE•CHAIR BROWNING:

Okay. So we made a motion and we have a second. All in favor?
Opposed? Abstentions? Okay, motion carries. ***Approved***
(VOTE: 7•0•0•1 Not Present: Legislator Eddington).

Okay, IR 21 ••

LEG. SCHNEIDERMAN:

Can I be listed as a cosponsor on that, if I'm not already?
I think I may already be.

VICE•CHAIR BROWNING:

Okay, sure. Anybody else want to be a cosponsor?

LEG. CARACAPPA:

I believe I am.

LEG. SCHNEIDERMAN:

I may already be, but if I'm not, list me.

LEG. LOSQUADRO:

If I'm not, I think I am.

VICE•CHAIR BROWNING:

I believe you are, Joe.

LEG. VILORIA•FISHER:

Yeah, Joe is definitely.

VICE•CHAIR BROWNING:

Okay, ***IR 2173•06 • A Local Law establishing crime prevention***

requirements for scrap metal dealers (County Executive).

Oh, yes, okay, it has to be tabled, it's a Local Law.

MR. NOLAN:

There are public hearings.

VICE•CHAIR BROWNING:

For a public hearing, okay. Do we have a motion to table?

I'll make the motion to table.

LEG. LOSQUADRO:

Oh, the public hearing is for 2173?

LEG. CARACAPPA:

It's still open.

LEG. LOSQUADRO:

That public hearing is open, so. Yeah, table for a public hearing.

VICE•CHAIR BROWNING:

I made a motion to table for public hearings.

LEG. LOSQUADRO:

Second.

VICE•CHAIR BROWNING:

Second by Legislator Losquadro. All in favor? Opposed? Abstentions?

Okay, **tabled (VOTE: 7•0•0•1 Not Present: Legislator Eddington).**

**IR 2177•06 • A Local Law to prohibit skateboarding at County
•owned or operated facilities (Lindsay).** I believe •• do we have to ••

LEG. CARACAPPA:

Motion.

VICE•CHAIR BROWNING:

Okay, the public hearing was closed on this? Okay.

LEG. CARACAPPA:

The public hearing is closed, right?

VICE•CHAIR BROWNING:

Okay, I'll make a motion to approve and a second.

LEG. CARACAPPA:

Yeah, I'll second for the purposes of a discussion.

VICE•CHAIR BROWNING:

Okay, second for purposes of discussion, absolutely. Go ahead.

MR. BROWN:

Thank you, Ms. Browning. The County Attorney •• for the record, Dennis Brown from the County Attorney's Office.

We realize that there •• it is •• that the subject of the resolution is a skateboard which may not have high dollar value, but really for purposes of due process consideration it allows for a fine process and for seizure of somebody's property, really without any type of hearing process at all. And because there's no type of hearing process at all, it's the position of the County Attorney's Office that there could be constitutional violations with respect to the forfeiture of a person's property.

VICE•CHAIR BROWNING:

Okay. Legislator Lindsay has a comment.

P.O. LINDSAY:

I would just like to hear what Counsel has to say about Mr. Brown's observations.

MR. NOLAN:

The County Attorney's Office has communicated this issue to me and I believe the sponsors, all the sponsors of the resolution. This law was actually modeled on another County Law, I think having to do with motor

scooters, which also basically had the same seizure and return mechanism. The problem with creating a full•blown hearing process is that you're dealing with a skateboard which is problematic and the way the law is drafted is basically once they pay the fines they're going to get the board back. We seize property all •• all of our seizure laws allow the County to seize properties and then there's a post•seizure hearing and then you have a neutral magistrate which hears the case when it's a car or an ATV or something like that. But this is a skateboard and I don't know that we need all the full•blown due process protections in this particular case, particularly since it's crafted in such a way that once the fines are paid and the storage fees, the person or the parent will get the board back. So I think we can proceed as is.

VICE•CHAIR BROWNING:

Okay. That's it, no more comment? Okay, so we had a motion to approve and there was a second. All in favor? Opposed? Abstentions? Motion carries. ***Approved (VOTE: 7•0•0•1 Not Present: Legislator Eddington).***

Okay, ***IR 2189•06 • Amending the 2006 Capital Budget & Program and appropriating funds in connection with the purchase of security equipment for Suffolk County Correctional Facilities (CP 3035) (County Executive).*** Do I have a motion to approve?

LEG. CARACAPPA:

Motion.

VICE•CHAIR BROWNING:

Okay, motion to approve, Legislator Caracappa.

LEG. SCHNEIDERMAN:

Second.

VICE•CHAIR BROWNING:

Second, Legislator Schneiderman. And any comments? No, okay. All in favor? Opposed? Abstentions? Okay, motion carries.

Approved (VOTE: 7•0•0•1 Not Present: Legislator Eddington).

Introductory Resolutions

We have ***IR 2216•06 • Establishing a notification policy when sex offenders violate the terms of their probation (Lindsay)***. Motion? I'll make a motion to approve.

P.O. LINDSAY:

Second.

LEG. LOSQUADRO:

Second.

VICE•CHAIR BROWNING:

Second by Legislator Lindsay, and Counsel has a comment again.

MR. BROWN:

Thank you, Legislator Browning. For the record, Dennis Brown from the County Attorney's Office. We did take a look at this and we have reached out to the Presiding Officer and also we reached out to Mr. Nolan regarding the fact that the resolution may create a special relationship between the County of Suffolk and between the victims of the sex offenders. And that by creating a special relationship between the two, a special duty is created and that in the event of any failure or breach of that duty, that liability would likely result to the County if the Probation Department failed to follow through on some of the proposals that are outlined in the resolution.

One of the solutions that we had proposed was possibly redoing it as a Local Law. Drafting it or redrafting it as a Local Law with a special clause in the Local Law carving out any liability language to the effect that would be there will be these duties of the Department of Probation, but that no special duty is created between the County of Suffolk and between any person who is to be notified by the Department of Probation.

VICE•CHAIR BROWNING:

Okay, Legislator Lindsay has a question. But I see John Desmond is here from Probation, maybe he would like to come up.

P.O. LINDSAY:

Mr. Brown, in all due respect.

MR. BROWN:

Sure.

P.O. LINDSAY:

What about our liability to the victim, if somebody jumps bail and the victim doesn't know they're out there roaming around unsupervised again and they get attacked again?

Applause

Don't we have some liability there?

MR. BROWN:

The resolution as it's written creates •• could create liability because of the special duty created. There are a number of factors that go into special •• that go into creating a special duty between a municipality, any municipality and/or the victim of any crime. Typically, ordinarily there would be no liability because of a failure to provide some type of police protection unless there is that immediate special duty. And that immediate special duty, it's most easily defined as an assumption by a municipality of some duty that it's supposed to undertake, a knowledge that a failure to act that there would be some harm caused, that there has to be some direct contact between the victim and between the municipality. And also, and a very important factor is that there's justifiable reliance by the victim upon the actions that will or will not be taken by the municipality.

So as a matter of ordinary questions of liability now, the answer to your question is no, there was not liability, but this liability could create a special relationship. And if there's a failure on the part of Probation in carrying •• in fulfilling those duties that are created by the special relationship, there could be liability.

P.O. LINDSAY:

Let me ask Mr. Desmond something, because forgive me, I'm not a lawyer and I don't want to get wrapped up in legalese. Do we •• is this a situation that happens frequently, that someone jumps bail; how often does that happen in our County?

DIRECTOR DESMOND:

Good morning. John Desmond, Probation Director. It's not •• what this law •• my understanding ••

P.O. LINDSAY:

I'm not asking about the law, I'm asking how many times somebody violates their Probation.

DIRECTOR DESMOND:

Okay, that's what I was going to clarify. It's not a jumping bail situation, it's a situation where we institute a Violation of Probation.

P.O. LINDSAY:

Okay.

DIRECTOR DESMOND:

We institute Violations of Probation on sex offenders somewhat frequently because we do it not just for the commission of new offenses, but also for failures to follow through appropriately on treatment, failure to report as directed, whenever we have any real concerns about them; so it's not an infrequent occurrence.

I don't have the stats in my head, but I would imagine that we probably do a Violation of Probation probably every couple of weeks on a sex offender. The majority of them result in the individual being continued on Probation, because the offense is not serious enough at that point to warrant the person being resentenced.

P.O. LINDSAY:

Okay. What about the offender that just disappears?

DIRECTOR DESMOND:

And that's what triggered this particular ••

P.O. LINDSAY:

And I think that's what this particular legislation is directed at.

DIRECTOR DESMOND:

Yes, that's what •• right, that's what triggered the interest of the Legislature, was the fact that we had an individual who absconded from supervision and we had gotten a warrant for that person. It was a special case in that the sex offender involved had been residing in a group home at one time where he had committed the offense. He was no longer residing at that group home at the time that he absconded, but we did notify the group home where the victim of that sexual attack was currently residing. What we hadn't done in that case was we hadn't notified the extended family of the victim because that victim was an adult, and we had notified the residents where the victim was currently in placement. Again, we have no problem notifying anybody any time any place.

P.O. LINDSAY:

Okay. So this particular bill, if passed into law, you wouldn't have a problem complying with.

DIRECTOR DESMOND:

No, we would have no problem whatsoever.

P.O. LINDSAY:

Okay. Because all we're trying to do here is to give the victim a chance to know that they could be in danger again, that they could defend themselves.

DIRECTOR DESMOND:

Right, and we're very concerned about that. Again, I'm not an attorney either, but I do understand the County is concerned about the special relationship because it is my understanding that kind of problem has arisen in a couple of jurisdictions in the country. But again, I'm not an attorney,

but I do know that is a concern.

VICE•CHAIR BROWNING:

Okay. Are we done?

LEG. VILORIA•FISHER:

No, I have a question.

VICE•CHAIR BROWNING:

Legislator Viloria•Fisher has a question.

LEG. VILORIA•FISHER:

Mr. Brown, when someone is a victim of domestic violence, are there notification provisions if their spouse violates Parole or Probation or •• is there any kind of notification?

MR. BROWN:

I would have to research that question for you; off the top of my head I do not know.

LEG. VILORIA•FISHER:

Okay, because I thought that might be a special •• one of those special duties or special relationships that the municipality would have with the victim of domestic violence. I just thought that there was some kind of relationship there and I thought that that would be a similar type of situation.

MR. BROWN:

What I can tell you about a special relationship or a special duty is that it's really a product of case law. So a person, typically when they're seeking police protection and doesn't receive the police protection, there are many cases perhaps where a lawsuit has been brought against the municipality, whether it be a town or a County or a city. And the case is largely hold that there's no liability for the failing to provide police protection unless some type of special relationship, and consequently a special duty, has been

created. And it really requires some type of affirmative action on behalf of the municipality to create that special relationship and special duty and reliance upon the person who is receiving that special attention. Now, are there statutory exceptions? There could be, but I cannot answer that question off the top of my head.

LEG. VILORIA•FISHER:

Okay, thank you. I just have a question for John Desmond regarding the case of the predator who was in a facility and abused someone who was disabled, or what was the situation with the person that was abused?

DIRECTOR DESMOND:

The victim had limited mental capacities.

LEG. VILORIA•FISHER:

Now, when the County or when your department informed the victim of the perpetrator having absconded, now was the family informed being that that victim had limited capacity and wouldn't then have the capability of an adult?

DIRECTOR DESMOND:

The victim •• my understanding is the victim was under the authority of that particular residence and there was no immediate family; the only family available was a sister. We had reached out to the facility where the victim was residing because we wanted to ensure her immediate protection and that was the concern.

LEG. VILORIA•FISHER:

So was that sister indeed the guardian of the victim?

DIRECTOR DESMOND:

I'm not sure, I'm not sure if she was a legal guardian or not. But again, you know, we would have no problem notifying anybody.

LEG. VILORIA•FISHER:

Somebody is pointing to the person, I know it was the woman who came up and spoke, Lois who came up and spoke earlier. That's why I'm asking the

questions because it would seem that this is a relationship where this •• where Lois •• I don't know her last name •• would seem to have the role of the guardian of that sister. So you're saying that the residence was notified but Lois indeed was not notified?

DIRECTOR DESMOND:

Right, was not notified.

LEG. VILORIA • FISHER:

Okay, I just wanted that clear on the record. Because the person who was the victim actually couldn't act on her own behalf as an adult if she was limited in her capacity.

DIRECTOR DESMOND:

Right, right.

LEG. VILORIA • FISHER:

Okay. Thank you, John.

VICE • CHAIR BROWNING:

Okay. With that said, I believe we had a motion and a second. All in favor? Opposed? Abstentions?

LEG. LOSQUADRO:

Madam Clerk, if I'm not already on as cosponsor, please list me.

VICE • CHAIR BROWNING:

Okay. Anybody else want to be cosponsor before we go on.

LEG. HORSLEY:

Sure.

VICE • CHAIR BROWNING:

Okay, motion carries. ***Approved (VOTE: 7•0•0•1 Not Present: Legislator Eddington).***

Okay, we have •• I guess this is sex offender week, huh. Okay, we have ***IR***

2241 • 06 • Authorizing the County of Suffolk to enter into a contract for the provision of ambulance service to County Correctional facilities and to compensate local ambulance districts for such services (Schneiderman). Legislator Schneiderman?

LEG. SCHNEIDERMAN:

Motion to approve.

VICE • CHAIR BROWNING:

Motion to approve and I'll second. Any comment? Okay.

MR. ZWIRN:

Madam Chair, if I might.

VICE • CHAIR BROWNING:

Oh, sorry. Ben?

MR. ZWIRN:

We have •• and Legislator Browning, I want to thank you and Legislator Schneiderman. We had a meeting I guess several weeks ago in Supervisor Skip Heaney's office talking about the ambulance company that is the subject of this proposal. I know that Legislator Browning is also concerned about one of the ambulance districts in her Legislative District with respect to calls that they make to the Yaphank Jail.

A lot of time is spent by ambulance companies when they have to respond to a correctional facility, having to go through security on both ends and the populations they're dealing with. And especially in Legislator Schneiderman's district, this ambulance company comes from a district which is not rich in resources with respect to taxpayers. So we had •• and we appreciate that •• the County Executive appreciates this being brought to his attention because we otherwise were not aware of it, and also thank Supervisor Skip Heaney for setting up the meeting.

The County Exec I think had conversations directly with Legislator Schneiderman about trying to do something with a budget amendment in 2007, to try to make this district whole because they do have some legitimate concerns that had not been addressed earlier. But what the

County Executive is also afraid of is opening up Pandora's box here because you have seven precincts in the County and if an ambulance district has to, you know, respond to a Police precinct to take a prisoner out, are they going to ask for additional funds? Smith County Point Park is another one where the ambulance district spends time at a County facility. So the County Executive would like to •• you know, we would like to see this tabled today so we can work this out with this particular bill.

LEG. SCHNEIDERMAN:

I did •• if I might. I did speak with the County Executive this morning, I haven't had a chance to discuss that conversation with the cosponsor, Legislator Browning. I think we may have a workable resolution to this matter that will take care of at least the Flanders situation, I need to talk to Kate about that as the cosponsor here.

I do want to keep the pressure on because I believe the pressure has helped lead to that potential solution. So if we could discharge it, but I will not move it on the floor if I can get a resolution •• because this has been going on for a long time. I will be introducing another resolution, after I've had that conversation with Kate, to do the budget amendment, but I don't believe I can do that until February of next year. So this is going to linger for a little bit, a little while. I'm pleased to see that we may have a moment to actually pass this thing, but I would like the County Executive's support as well, so I'm willing to work more. But can I ask that we discharge it, maybe discharge it without recommendation so we can keep that pressure on?

P.O. LINDSAY:

Madam Chair?

LEG. VILORIA•FISHER:

Go ahead, go, she's just talking. I'll be co•chair.

P.O. LINDSAY:

Okay. I can appreciate what you're saying, but why not just table it now if it's still something that's being worked on? For the simple reason ••

LEG. SCHNEIDERMAN:

You don't want it on the plate when we get to the Legislative meetings, is that what you're saying?

P.O. LINDSAY:

Pardon?

LEG. SCHNEIDERMAN:

So that it wouldn't be on the agenda necessarily at the Legislative meetings?

P.O. LINDSAY:

Yeah, yeah. And the only ••

LEG. SCHNEIDERMAN:

I understand.

P.O. LINDSAY:

And the only reason I say that, the Executive, he can modify the budget at any time, he doesn't have to wait until February. All I'm asking is to wait one cycle to see what you can work out because, you know, I could see this going to ••

LEG. SCHNEIDERMAN:

I understand.

P.O. LINDSAY:

You know, we have health centers all over the County that I'm certain that the ambulance corps at each one of those jurisdictions respond more to the health centers than to other places. The Foley Nursing Home I know must have a tremendous amount of nursing ambulance calls because every nursing home in my district, you know, the ambulance corps are deluged with calls to the private nursing homes, so I'm sure our nursing home must be in the same thing. I don't disagree with what you're saying, all I'm asking for is ••

LEG. SCHNEIDERMAN:

Right. I mean, my intention is to get relief to an ambulance district that spends I'd say at least 10% of their time transporting prisoners from the County Correctional Facility in Riverhead. And in an area where 80% of the land is off the tax roles, it's a tough burden on that group and I think the County Executive recognizes it and wants to address it. If it pleases you to table it, then I'll agree to •• Kate, is that okay with you, we'll table it one cycle?

VICE•CHAIR BROWNING:

Yeah. But, you know, one of the concerns is I did speak with the South Country Ambulance and their concern is they do respond to the Foley facility, they respond to the jail, the Police Headquarters, DPW, and it takes away •• you know, if they're responding to County facilities, then who's available to respond to the public?

P.O. LINDSAY:

Well ••

LEG. SCHNEIDERMAN:

One of the problems of the compromise that I'm discussing with the County Executive does not necessarily address the South Country situation, it addresses the situation I have in my district.

MR. ZWIRN:

And I would suggest, if it was tabled, that perhaps Legislator Browning could speak with the County Executive as well and maybe they can resolve it. I know that the jails we can see as a special circumstance.

VICE•CHAIR BROWNING:

Yep.

MR. ZWIRN:

I think we're going to have some disagreements when we start going to the Foley Center, the County Center, the County parks, precincts; I mean, those

are also members of the public that need to be served as well and also generally taxpayers who fall ill. But the jail situations are definitely different because they take up so much time and put an ambulance service, put them out of ••

LEG. SCHNEIDERMAN:

At risk.

MR. ZWIRN:

Well, at risk and also they put them out of the reach of everybody else for a long period of time because of the security issues. And I think if those could be addressed separately and maybe together, then this issue can be laid to rest, the County Executive would be much relieved.

VICE•CHAIR BROWNING:

Yeah, and we do need to resolve it somehow, because they're willing to accept some County relief, you know, even just for the jail. They are •• •• they have stated very clearly to me that next year, 2007, they may just turn around and say, "You know what? You're on your own, find your own."

MR. ZWIRN:

Well, I mean, that was always a possibility that the County Exec was ready to explore, because the same thing had been said in ••

LEG. SCHNEIDERMAN:

Right, in Southampton that threat is lingering out there, too, that it would be carved out of the district.

MR. ZWIRN:

Yeah, Southampton, and whether we go with a private agency or we contract with another. And it's not unprecedented, we did for years •• we did for years at Gabreski Airport contract with the Westhampton Beach Fire Department.

VICE•CHAIR BROWNING:

But I believe ••

P.O. LINDSAY:

Could I just say something?

VICE•CHAIR BROWNING:

Go ahead, Bill.

P.O. LINDSAY:

First of all, I hear the pleas. I don't think it would be a very wise position for the ambulance company to say that they're not responding to any call, regardless of where it is.

LEG. SCHNEIDERMAN:

Mr. Presiding Officer, they actually •• in the case of Southampton, the district could be withdrawn to not include the County Center, so they have to respond to anything within their district.

LEG. VILORIA•FISHER:

They have to respond.

P.O. LINDSAY:

Legislator Schneiderman, I listened to you intently ••

LEG. SCHNEIDERMAN:

I'm sorry, okay.

P.O. LINDSAY:

And I just think, you know, that's just an aside. In terms of what we're talking about here, it almost •• well, the last week, it almost feels odd that I'm agreeing with the County Executive as far as budget issues are concerned, but I do have to agree with them. I'm concerned about limiting where we go with this. If something is established that every time an ambulance company responds to a County facility and we have to make a payment for that, it could be a very expensive situation that we'd have find the money for. I hear the problems with the jail and, yeah, if you can work it out and the Executive is willing to work it out, I'd like to see that happen; if not, then we'll move on it at the next cycle.

VICE•CHAIR BROWNING:

Okay. Legislator Viloría•Fisher has a comment.

LEG. SCHNEIDERMAN:

Kate?

LEG. VILORIA•FISHER:

I've been on a committee with Legislator Schneiderman for quite a while where he has been asking that this be addressed. I support the tabling motion today, but I do want to see either an initiative from the County Executive's Office come forward or for us to pass this. Because I believe that the correctional facility situation is very unique and I think Legislator Schneiderman has been very patient with this and I do support giving some relief. I think it's the Flanders ••

LEG. SCHNEIDERMAN:

Flanders, Northampton, Riverside Ambulance.

LEG. VILORIA•FISHER:

And those aren't fire departments that have a lot, fire districts that have a lot of resources. And I really do urge the County Executive's Office to move expeditiously on this, because I think if not this particular resolution would make a lot of sense because it is such a unique situation. I don't see this particular resolution as that much of a slippery slope, correctional facilities are very different. And know that in my own district, having the State University in my district and, in fact, the fire departments do have to respond, they can't decide whether or not they want to respond unless the district is redrawn and they respond quite often to false alarms and the ambulance corps have to respond to different needs. So, you know, there are a lot of ramifications involved in this, but I do believe correctional facilities are a little bit different and very unique. So I do support this going forward.

LEG. SCHNEIDERMAN:

Thank you. Kate?

VICE•CHAIR BROWNING:

Okay, Legislator Schneiderman.

LEG. SCHNEIDERMAN:

And I also concur that the correctional facilities are different and we could make an exception here. My one concern with going this other route is that it's not permanent. That if we go with a member item or a line item in the budget, you know, next year it could be eliminated and we could end up seeing relief for one year, whereas if we go with a statutory route there'll be a mechanism in place every year that this department, in the case of South Country, that they could rely on. So if my colleagues would prefer to see this bill move forward, I think maybe that's the direction we should go.

VICE•CHAIR BROWNING:

It's your call.

LEG. VILORIA•FISHER:

Well, let's table it for one cycle, see what happens.

LEG. HORSLEY:

There's a motion to table.

VICE•CHAIR BROWNING:

So you've made a motion to table?

LEG. VILORIA•FISHER:

No, I didn't.

LEG. HORSLEY:

I'll make the motion.

P.O. LINDSAY:

I'll second.

VICE•CHAIR BROWNING:

So we have a motion to table by Legislator Viloría•Fisher, second by Legislator Lindsay. All in favor?

P.O. LINDSAY:

Actually it was Horsley and Lindsay.

VICE•CHAIR BROWNING:

Oh, sorry. All in favor?

LEG. SCHNEIDERMAN:

One cycle.

VICE•CHAIR BROWNING:

Opposed? Abstention? Okay, I guess ***it's tabled (VOTE: 7•0•0•1 Not Present: Legislator Eddington).***

Okay, ***IR 2252•06 • Accepting and appropriating a grant in the amount of \$712,200 from the New York State Office of Homeland Security for the Law Enforcement Terrorism Prevention Program (LETPP FFY2006) with 100% support (County Executive).***

LEG. VILORIA•FISHER:

Motion to approve and place on the consent calendar.

LEG. LOSQUADRO:

Motion to approve and place on the consent calendar.

VICE•CHAIR BROWNING:

Okay.

LEG. LOSQUADRO:

Take your pick.

VICE•CHAIR BROWNING:

Okay, we'll give that to Dan. Legislator Losquadro and second, Legislator Viloría•Fisher. All in favor? Opposed? Abstentions? Okay, ***it's approved and placed on consent calendar (VOTE: 7•0•0•1***

Not Present: Legislator Eddington).

Okay **IR 2258•06 • Accepting and appropriating a grant in the amount of \$102,300 from the New York State Division of Criminal Justice Services for the Suffolk County Police Department Bellport Task Force 2006 with 90% support (County Executive).** I would like to make a motion to approve.

LEG. LOSQUADRO:

Second.

VICE•CHAIR BROWNING:

Second Legislator Losquadro. All in favor? Opposed? Abstentions? Okay, motion carries. **Approved (VOTE: 7•0•0•1 Not Present: Legislator Eddington).** Thank you for Bellport.

IR 22 •• oh, okay, the other two we've done.

IR 2264•06 • A Local Law prohibiting sex offenders from loitering on or about the grounds of playgrounds, day•care centers and other locations where minors gather (Cooper). This is a motion to table for a public hearing.

LEG. LOSQUADRO:

Second.

VICE•CHAIR BROWNING:

Second by Legislator Losquadro. All in favor? Opposed? Abstentions? **Motion is tabled for a public hearing (VOTE: 7•0•0•1 Not Present: Legislator Eddington).**

IR 2268•06 • A Local Law to strengthen ATV seizure and forfeiture provisions (Lindsay). Motion to table for a public hearing. Second, Legislator Losquadro. All in favor? Opposed? Abstentions? Okay, **it's tabled for a public hearing (VOTE: 7•0•0•1 Not Present: Legislator Eddington).**

IR 2280•06 • Designating individual agents as official volunteers for Suffolk County Society for the Prevention of Cruelty to Animals for 2007 (County Executive). Motion to approve, I'll make the motion.

LEG. VILORIA•FISHER:

I have a question.

VICE•CHAIR BROWNING:

Second?

LEG. VILORIA•FISHER:

Oh, you know what? They answered that question, never mind.

VICE•CHAIR BROWNING:

Okay, do we have a second?

LEG. VILORIA•FISHER:

I'll second.

VICE•CHAIR BROWNING:

Okay, second, Legislator Vilorina•Fisher. All in favor? Opposed?

Abstentions? Motion carries. ***Approved (VOTE: 7•0•0•1 Not Present: Legislator Eddington).***

IR 2289•06 • A Local Law expanding real property tax exemptions for un•remarried spouses of deceased members of volunteer firefighters and volunteer ambulance workers (County Executive).

This is tabled. I'll make a motion to table for a public hearing. Second, Legislator Losquadro?

LEG. LOSQUADRO:

Yeah, once it comes before us I'll ••

VICE•CHAIR BROWNING:

You have a comment?

LEG. LOSQUADRO:

No, once it comes before us. It's tabled for a public hearing.

VICE•CHAIR BROWNING:

Okay. All in favor? Opposed? Abstentions? Okay, motion carries. ***Tabled (VOTE: 7•0•0•1 Not Present: Legislator Eddington).***

IR 2290•06 • A Local Law to require landlords to register with the Department of Probation prior to renting to sex offenders (Browning).

I'll make a motion to approve •• sorry, to table.

LEG. VILORIA•FISHER:

No, it's a Local Law.

VICE•CHAIR BROWNING:

Darn it, I thought we were getting somewhere. We'll table for a Local Law.

MS. ORTIZ:

Public hearing.

LEG. CARACAPPA:

Second.

VICE•CHAIR BROWNING:

Public hearing.

MR. NOLAN:

Caracappa seconded it.

VICE•CHAIR BROWNING:

Okay, Legislator Caracappa. All in favor? Opposed? Abstentions? ***Okay, it's tabled for a public hearing (VOTE: 7•0•0•1 Not Present: Legislator Eddington).***

IR 2291•06 • A Local Law to permit polygraph examinations of

civilian applicants to the Suffolk County Police Department, Sheriff's Department and District Attorney's Office (Losquadro). And this is motion to table for a public hearing and second by Legislator Caracappa. All in favor? Opposed? Abstentions? Okay, it's **tabled for a public hearing (VOTE: 7•0•0•1 Not Present: Legislator Eddington).**

I guess we have nothing else. Motion to adjourn.

(*The meeting was adjourned at 12:28 PM*)

**Legislator Kate Browning, Vice • Chair
Public Safety & Public Information Committee**

{ } • Denotes Spelled Phonetically